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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,308	03/31/2004	Brian Poitras	POB-501US	5186
20738	7590	11/14/2007		
THOMAS P O'CONNELL 1026A MASSACHUSETTS AVENUE ARLINGTON, MA 02476			EXAMINER SELF, SHELLEY M	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 11/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/814,308

Applicant(s)

POITRAS ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on August 30, 2007 has been considered but is ineffective to overcome the prior art reference.

Upon further review the indication of allowable subject matter noted in the previous Office Action is withdrawn and an action on the merits follows.

Further, due to the amendment filed August 30, 2007, the restriction required (3/30/07) is withdrawn and an action on the merits of claims 2-41 follows.

### ***Specification***

The amendment filed August 30, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is as follows: "*global positioning unit retained relative to the digestion chamber*".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

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the inventor(s), at the time the application was filed, had possession of the claimed invention.

Neither the original specification nor the originally filed drawings provide support for a "*global positioning unit retained relative to the digestion chamber*".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 11, 28-30, 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 11, the recitation, "*whereby organic material will tend to from the primary subchamber...*" is not clear and therefore a clear understanding of the claimed invention ca not be gleamed. Clarification is required.

With regard to claim 28, it is unclear whether it is the shredding unit that comprises both counter-rotating shredding shafts and a ferrous material separator or if the ferrous material separator is a component of the composting system and not a component of the shredder. Examiner suggests a clear and positive recitation of all critical mechanical cooperation between elements. For example how does the ferrous material separator interrelate to the rest of the positively recited elements? Clarification is required.

With regard to claims 39 and 40, it is not clear how if the malfunction report communications a malfunction of a portion of the composting system, i.e., breakage or jamming on the shredding unit, or a malfunction in the shaft 16 (Disclosure pg. 22). How is it the malfunction report includes an indication of the location of the composting system. Examiner further notes the claims do not positively recite the composting system to be mobile or portable,

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therefore the location of the compositing system is dependent upon operator choice and therefore relative.

Although no prior art has been applied to the claims, the claims as presently presented are not deemed allowable.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Shindo et al. (5,587,320). With regard to claims 8 and 10, Shindo discloses a com posting system, comprising a digestion chamber (1) with an input aperture, a body portion, an exhaust aperture; an auger shaft (20) rotatably retained within the digestion chamber (1); at least one mixing vane (23); and means for inducing rotation of the auger shaft (22); wherein the digestion chamber is subdivided into a plurality of subchambers by at least one divider wall (41) wherein the auger shaft is disposed through each of the plurality of subchambers (col. 12, lines 18-22) wherein there are first and second divider walls (col. 12, lines 18-22) to create primary, secondary and tertiary sub-chambers and input aperture in communication with the primary sub-chamber and exhaust aperture in communication with the tertiary sub-chamber.

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With regard to claim 9, Shindo discloses a heat sensor and heating element operably associated with the sub-chamber relative to which the temperature sensor is coupled whereby that sub-chamber can be maintained in a desired temperature condition. Examiner notes the heat exchanger (6) and heater element (13) act as a sensor to maintain temperature (col. 7, lines 66-68 to col. 8, lines 1-20; col. 9, lines 59-62).

With regard to claims 12 and 13, Shindo discloses at least one/plural mixing vanes (23).

With regard to claim 14, Shindo discloses at least one vent (11). Examiner notes the pipe (11) acts as a vent for enabling an ingress or egress of gasses relative to the sub-chamber.

With regard to claim 15, Shindo discloses a fan (7; fig. 1-3).

Additionally claims 8-10, 12, 13, 22-28, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Seagren (6,399,366). With regard to claims 8, 10, 12, 13 and 31-33, Seagren discloses a composting system, comprising a digestion chamber (fig. 1-9) with an input aperture, a body portion, an exhaust aperture; an auger shaft (27, 60) rotatably retained within the digestion chamber (fig. 2, 9); at least one mixing vane (fig. 2, 9); and means for inducing rotation of the auger shaft (27, 60); wherein the digestion chamber is subdivided into a plurality of subchambers by at least one divider wall (fig. 9) wherein the auger shaft is disposed through each of the plurality of subchambers (fig. 9) wherein there are first and second divider walls (fig. 9) to create primary, secondary and tertiary sub-chambers and input aperture in communication with the primary sub-chamber and exhaust aperture in communication with the tertiary sub-chamber and a shredding unit (S) disposed adjacent to the input end of the digestion chamber; a motor (M) .

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With regard to claims 22-24, Seagren discloses a means for enabling an introduction of fluids (50) into the digestion chamber (col. 8, lines 46-68).

With regard to claim 25, Seagren discloses wherein the means for inducting rotation of the auger shaft comprises a power unit (M) and further comprising a shell housing wherein the digestion chamber and the power unit are disposed in the shell housing.

With regard to claim 26, Seagren discloses a barrier wall between the digestion chamber and the power unit (fig. 2, 3).

With regard to claims 27-28 as best as can be understood, Seagren discloses a shredder (S) comprising counter rotating shredding shafts (col. 5, lines 1-10).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8, 16, 19, 21, 22, 25-27, 31-38 and 41-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Kerouac (6,071,740) in view of Shindo et al. (5,587,320)

Or

Seagren (6,399,366)

With regard to claims 8, 6, 31 and 32, Kerouac discloses a composing system comprising a digestion chamber (fig. 4) with an input aperture and an exhaust aperture; an auger shaft (130) rotatably retained relative to the chamber; at least one mixing vane (134) retained relative to the

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auger and a means for inducing rotation of the auger (col. 8, 42-46) wherein the digestion chamber is separated into primary, secondary and tertiary sub-chambers (fig. 4) a shredding unit (fig. 1) and barrier wall (fig. 1)

Kerouac does not disclose an auger disposed through each of the plurality of sub-chambers.

Both Shindo and Seagren each teach the use an auger disposed through each of a plurality of subchambers. Because the references are from a similar art and deal with a similar problem, i.e., composting waste it would have been obvious at the time of the invention to the skilled Artisan to provide Kerouac with an auger disposed through each of the plurality of sub-chamber so as to efficiently compost waste as taught by both Shindo and Seagren.

With regard to claims 2-4, 34 and 35, Kerouac is silent to the type of drive means, i.e., Kerouac does not disclose a hydraulic power unit. However the specific selection of a hydraulic power unit/drive means over that of another (i.e., hydraulic, pneumatic, hydro-electric, electric, etc...) is one of mechanical expedients and requires only routine skill in the art. Further Applicant has not positively recited any criticality to the use of a hydraulic power unit therefore, the mere selection of any known type of power unit is would result from routine experimentation and engineering practices and is therefore, not non-obvious.

With regard to claim 5, Kerouac discloses a conveyor unit (130).

With regard to clam 7, Kerouac discloses a controller (320).

With regard to claims 16-19, Kerouac discloses at least one malfunction sensor for sensing a malfunction of the composting system. Examiner notes that Kerouac's temperature and CO<sub>2</sub> sensors in conjunction with temperature and carbon dioxide level readouts of the



operator control station (310) function as a malfunction sensor. In that if the temperature is too low or too high such is determined by the sensor and readout and a malfunction of the temperature within a chamber can then be known.

With regard to claim 17 and 18, Examiner notes because all of the structure is operatively connected, the malfunction sensor is too operably connected to the auger and the shredding unit. The claim as written does not recite a malfunction sensor directed coupled to the auger or the shredding unit nor does the claim prohibit any intermediary structure between the malfunction sensor and the auger or between the malfunction sensor and the shredding unit.

With regard to claim 21, 37 and 38, Kerouac discloses means for communication a malfunction report comprises means for communicating a malfunction report to a remotely located receiver (310) depending on type of malfunction. Examiner notes the temperature and CO<sub>2</sub> sensors or Kerouac communicate functioning the temperature and CO<sub>2</sub> levels to the operator station (i.e. remote receiver).

With regard to claim 22 and 41-43, Kerouac discloses a means for enabling an introduction of fluids into the digestion chamber. Examiner notes the aperture (206) is a means for enabling an introduction of fluids. Examiner further notes the claim as written does not positively recite introduction of fluids for improved composting.

With regard to claim 25, Kerouac discloses wherein the means for inducing a rotation of the auger shaft comprises a power unit (col. 8, line 42-44) and further comprising a shell housing (20; fig. 1) wherein the digestion chamber and the power unit are disposed in the shell housing (fig. 1).

With regard to claim 26, Kerouac discloses a barrier wall (fig. 1, 2).

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With regard to claim 27, Kerouac discloses a shredding unit (120).

With regard to claim 33, Kerouac discloses means for inducing a rotation of the auger shaft and the means for powering the shredding unit comprises a single power unit (col. 9, lines 30-33).

With regard to claim 36, see above with reference to claim 14.

### *Response to Arguments*

Applicant's arguments have been carefully considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection was not necessitated by the amendment.

### *Conclusion*

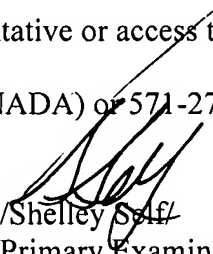
Due to the new grounds of rejection this Office Action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
/Shelley Self/  
Primary Examiner  
Art Unit 3725

November 13, 2007

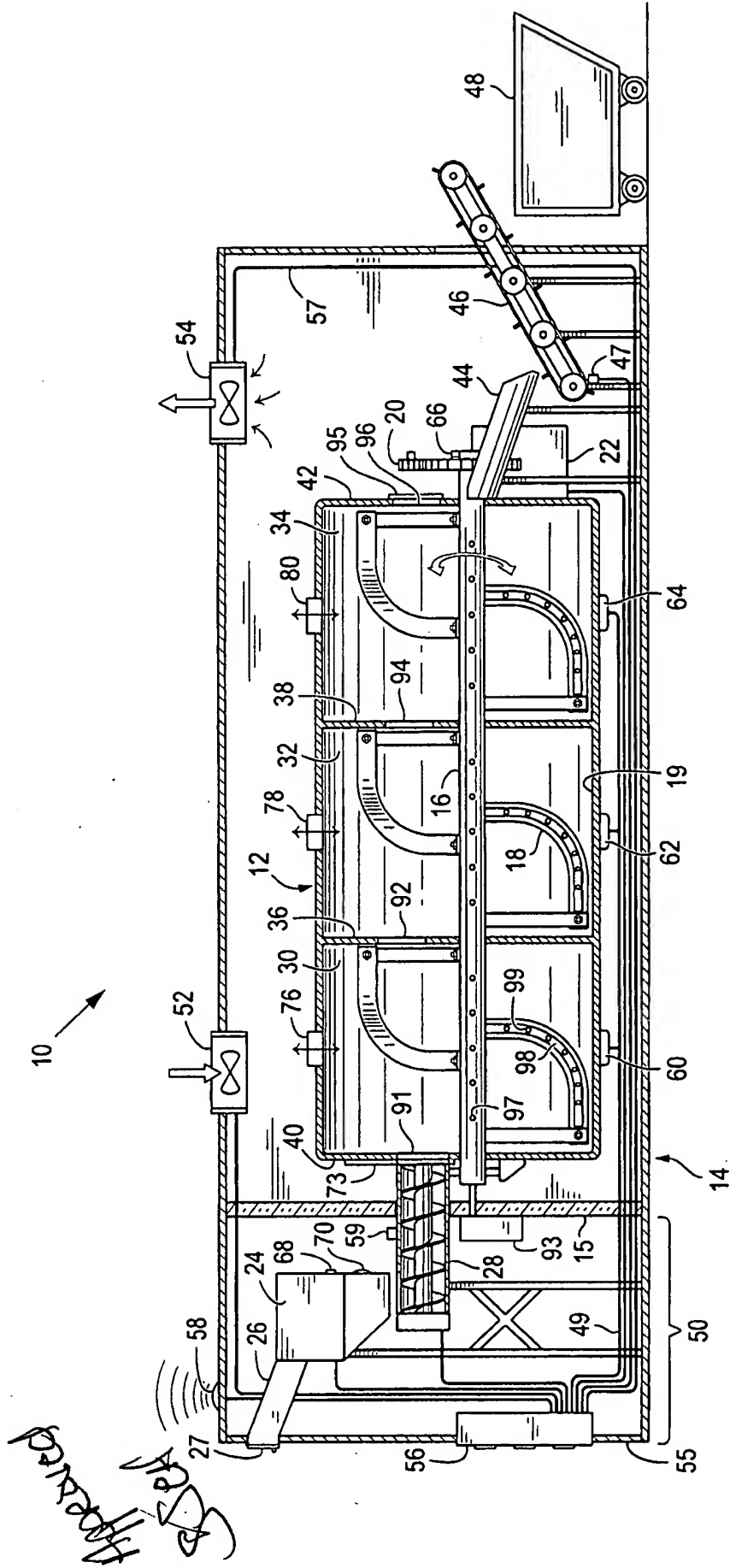


FIG. 1